

Appendix C

Prohibited Items, Items That Often Require Pre-Purchase Approval, and Fiscal Law Issues

Appendix C is divided into three sections. Section I deals with prohibited items. Under no circumstances shall a cardholder purchase a prohibited item. Section II deals with pre-purchase approvals that may be required. Section III deals with fiscal law issues.

Section I

Prohibited Items

This section identifies transactions that are prohibited. It is not all-inclusive.

Cardholders should contact local authorities prior to purchasing any items that seem questionable or may have the appearance of being inappropriate.

The following transactions are prohibited items for GPC purchases made using appropriated funds:

C-1. Cash advances

Money orders, travelers' checks, and gift certificates are also considered to be cash advances and will not be purchased by Cardholders, even to obtain items from merchants who do not accept the GPC.

C-2. Long-term lease of land and buildings

Use of the GPC to lease real property, i.e. land and/or buildings, for a term longer than one month is prohibited. See C-24 for limited short-term rentals.

C-3. Aircraft Fuel

Use of the GPC to purchase fuel or oil for aircraft is prohibited.

C-4. Repair of leased GSA vehicles

Use of the GPC to purchase repairs on GSA fleet operated vehicles is prohibited.

C-5. Telecommunication systems

The purchase of major telecommunications systems, such as FTS or DSN systems, is prohibited.

C-6. Construction services over \$2,000

Use of the GPC to purchase construction services over \$2,000 is prohibited.

C-7. Wire transfers

Use of the GPC to purchase wire transfers is prohibited.

C-8. Savings bonds

Use of the GPC to purchase savings bonds is prohibited.

C-9. Foreign currency

Use of the GPC to purchase foreign currency is prohibited.

C-10. Dating and escort services

Use of the GPC to purchase dating and escort services is prohibited.

C-11. Betting, casino gaming chips, and off-track betting

Use of the GPC for betting, casino gaming chips, and off-track betting is prohibited.

C-12. Transactions with political organizations

Use of the GPC for transactions with political organizations is prohibited.

C-13. Court costs, alimony, and child support

Use of the GPC to pay court costs, alimony, or child support is prohibited.

C-14. Fines

Use of the GPC to pay fines is prohibited.

C-15. Bail and bond payments

Use of the GPC to make bail and bond payments is prohibited.

C-16. Tax payments

Use of the GPC to make tax payments is prohibited.

Section II

Items That Often Require Pre-Purchase Approval

Purchases of certain items are often designated by an agency or organization as prohibited unless a specified agency official approves in advance the purchase of the item. This section lists many of these items. A cardholder shall obtain any required approval prior to purchase. Failure to obtain any required approval prior to purchase may result in the Cardholder and/or Billing Official reimbursing the Army for the loss i.e. the purchase price of the unapproved item or service. In addition, agencies often require that certain items or services be purchased from another government agency or specified vendor. In such cases a waiver is required before purchase from a different source.

C-17. Printing

Defense Automated Printing Service (DAPS) is the mandatory source for all printing/reproduction services. See FAR 8.802 and AR 25-50. Since DAPS is a government source this transaction is an intra-Governmental transfer and the micro-purchase threshold does not apply. Accordingly, cardholders may be authorized higher dollar limits to pay for DAPS services. Limited exception: Cardholders may request a waiver from DAPS to allow purchase of commercial printing services.

C-18. Hazardous material

Purchases of hazardous or dangerous materials must be approved by the local authority.

C-19. Advertising

Cardholders must obtain pre-purchase approval for advertising purchases with the GPC in accordance with local procedures.

C-20. Video information (VI)

Cardholders must obtain pre-purchase approval for VI purchases in accordance with local procedures.

C-21. Information Technology

Cardholders must obtain approval from the installation's Information Management Office (IMO) before purchasing information technology services, computer equipment, and software. This requirement for prior approval includes network equipment, printers, data storage devices, other computer peripherals and related software, and information technology services. In addition, the Cardholder must check with the Army Small Computer Program (ASCP) point of contact to determine whether the purchase must be made from one of the ASCP's blanket purchase agreements or contracts. The ASCP website is <https://ascp.monmouth.army.mil/scp/ascp/aboutus.jsp>

C-22. Equipment and materiel

Any equipment or materiel purchased with representational funds must be pre-approved (AR 37-47).

C-23. Ergonomic-related and low-vision equipment

Ergonomic-related and low vision equipment requirements and equipment selection should be identified or verified by a qualified safety or occupational health professional that has completed a 40-hour applied ergonomics course or equivalent. These professionals can ensure the equipment will meet the functional needs of the employee and prevent further injury or facilitate return to

work. Before using agency funds for such purchases, the Computer/Electronic Accommodations Program (CAP) office should be considered, as it may fund the purchase. The CAP office requires injury verification by medical documentation and the supervisor's approval for the funding request. Contact the USACHPPM Ergonomics Program, 410-436-3928 for more information on ergonomics and ergonomic equipment solutions. <http://tricare.osd.mil/cap>

C-24. Travel-related purchases

Travel-related purchases include rental/lease of motor vehicles associated with travel or temporary duty supported by travel orders (for example, purchase of airline, bus, and train tickets), and purchase of meals, drinks, lodging, or other travel or subsistence costs associated with official Government travel that will be reimbursed on a travel voucher. A Cardholder shall not purchase these type items with a GPC unless your GPC A/OPC approves, in writing, the purchase. A travel card should be used for travel-related purchases.

C-25. Short Term Rental or Lease of land and buildings

The GSA SmartPay master contract provides that the GPC "shall not be used for the long-term rental or lease of land or buildings. " While the term "long-term rental or lease" is not defined in the contract, GSA has historically interpreted this language to permit use of the GPC as a payment mechanism in the case of

space acquired for a month or several weeks; for example, where a unit is deployed and requires space for such a time period. Additionally, GSA considers appropriate use of the GPC to include payment for renting a facility for a conference or meeting on a short-term basis (where a centrally billed travel card account would not be appropriate) as well as use for an agency acquisition of space for several weeks in case of emergency, such as responding to a natural disaster or an act of terrorism.

C-26. Wood Packaging Material (WPM)

As the global movement of people and goods increases, so does the threat of the introduction of non-indigenous or "exotic" insects. Many of these insects pose a serious threat to the health of forests. Recently, a number of countries have adopted or announced upcoming adoption of new regulations concerning import requirements for wood packaging. Most countries are moving to draft regulations that meet the International Standards on Phytosanitary Measures (ISPM) 15, "Guidelines for regulating wood packaging in international trade". This standard recognizes wood that has been heat treated to 56 C at the core for 30 minutes. In the U.S., Pacific Lumber Inspection Bureau (PLIB) is accredited by the American Lumber Standard Committee (ALSC) to provide monitoring and auditing of wood packaging (pallets, crates, boxes, etc.) manufacturers. Under the WPM program, PLIB monitors the conformance of approved wood packaging facilities to the ALSC WPM program and ISPM 15. The ALSC WPM program

operates under a Memorandum of Understanding with the USDA Animal Plant Health Inspection Service (APHIS). Contact PLIB for a list of mills, which can meet the requirements of the ALSC-APHIS program. Wood or wood products to be used as wood packaging material shall not be purchased unless it meets the ISPM 15 standard or other acceptable standard.

Section III

Fiscal Law Issues

Many questions often arise regarding whether or not using the purchase card for a particular purchase is authorized by law. In many cases, there may not be a purchase card restriction but there is a higher-level restriction (i.e., is the use of government appropriated funds authorized for the purchase in question). The following examples are to illustrate the general rules for acceptability on using appropriated funds for these frequently encountered purchase categories. This list is not all-inclusive. Also, it does not take into account whether an activity has specific statutory authority for particular types of purchases. These examples should be used merely as a guide; there may be exceptions granted by additional authorities and/or your activity may have specific statutory authority for the purchase in question. Any requests for purchases in the below areas require careful scrutiny. Consult with your legal counsel and financial operations office.

C-27. Food and Refreshments

The general rule as to whether a proposed purchase of food is authorized by law and exceptions can be found in Principles of Federal Appropriations Law, 2nd Edition, Volume I, page 4-84, July 1991.

As a general rule, most appropriated funds are not available to pay subsistence or to provide free food to civilian government employees at their official duty stations or vicinity. The “free food” rule applies to snacks and refreshments as well as meals. (68 Comp. Gen. 46, 48 (1988); 42 Comp. Gen. 149, 151 (1962); B-140912, Nov 24, 1959). There is an exception. Food and/or refreshments may be purchased using Official Representational Funds.

Until recently, light refreshments at conferences where attendees were in TDY status with local attendees were authorized by the JFTR. In a new case issued on 27 January 2003, the Government Accountability Office (GAO) said it would not be appropriate to pay for the food of government employees attending a government-sponsored conference at their duty station. GAO's rationale is that food is a personal expense of the employee and may not be paid for with appropriated funds except where specifically permitted by statute. GAO said it

would be okay to provide free food to the conference attendees who were on TDY because the free food could be considered part of their travel per diem. In that case, the TDY government attendees would have to claim the free food on their travel voucher so that the cost of the free meals could be deducted from the reimbursement.

Of course, this creates a rather awkward situation, i.e., your out-of-towners being able to eat free of charge but your local folks having to pay. Most agencies have simply decided to either forego providing free food altogether, have everybody (locals and TDY attendees) pay for their meal at the meeting or conference, or break for lunch and let all attendees go out on their own.

The General Services Administration has recently announced that it plans to discuss resolution of this issue with the General Accounting Office. This discussion could result in an amendment to the Federal Travel Regulation and related guidance. Consequently, Comptroller and Counsel Offices should be consulted and involved in the planning process to ensure compliance with law and regulation.

Small “samples” of ethnic foods served during a formal ethnic awareness program as part of the agency’s equal employment opportunity program are typically authorized (60 Comp. Gen. 303 as expanded in B-199387).

There are other exceptions to the general prohibition to providing free food to government employees at their official duty stations. Two exceptions are derived from the Government Employees Training Act, 5 USC 4109.

The first exception is called the "training" exception and it allows an agency to pay for the food of government employees attending a training conference at their official duty station if the meal is NECESSARY to obtain the full benefit of the training program. And it's not enough to simply call the conference a "training conference." There must be actual training taking place. The Act specifically allows the expenditure of appropriated funds to pay for "all or a part of the necessary expenses of training" and meals can be considered a necessary expense of providing training, under the right circumstances. Use of this exception requires an administrative determination, by a responsible official in the organization, that providing meals is necessary to obtain the full benefit of the training.

The second exception is called the "formal meetings and conferences" exception, which allows an agency to pay the cost of meals and refreshments at formal meeting and conferences when three conditions exist: (1) the meals must be incidental to the meeting or conference (i.e., can't be a meeting that takes place only over lunch); (2) attendance of employees at the meals must be necessary for full participation in the meeting or conference (e.g., an important speaker speaking during the lunch hour as part of the overall conference or meeting); and

(3) the employees are not free to take meals elsewhere without being absent from the essential business of the meeting or conference. This exception does not apply to purely internal business meeting or conferences and usually requires an administrative determination that the three pre-conditions have been met.

C-28. Personal purchases

Cardholders shall not purchase items merely for personal convenience, comfort, or entertainment and not required for an official Government use. These items should be purchased through employee collections and/or personal funds.

Limited exception: If an otherwise “personal” purchase is deemed proper by the respective agency official (usually an O-6 or above) as mission essential and a necessary expense of operating a facility, the purchase may be authorized.

These mission-essential items must be documented and secured.

C-29. Memberships

Appropriated funds may not be used to pay membership fees of an employee of the United States or District of Columbia in a society or association (5 USC 5946) regardless of the resulting benefit to the agency. This prohibition does not apply if the fee is authorized under the Government Employees Training Act if the fee is a necessary cost directly related to the training or a condition of training (5 USC 4109 (b)). An agency may purchase a membership in its own name upon an administrative determination that the expenditure would further the authorized

activities of the agency and this is not affected by any incidental benefits that may accrue to individual employees. In addition, payment of a membership fee at the beginning of the period of membership does not violate the prohibition on advance payments found in 31 U.S.C. Section 3324, B-221569, June 2, 1986. What is being purchased is a “membership,” and the “membership” is received upon payment.

C-30. Greeting Cards and Decorations

The cost of greeting cards is a personal expense and may not be charged to public funds. It does not matter if the card is “non-personal” (sent by the agency and not containing the names of any individuals (47 Comp. Gen. 314, 1967; B-156724, Jul 7, 1965). Seasonal decorations are permissible where the purchase is consistent with work-related objectives (such as morale), agency or other applicable regulations, and the agency mission, and is not primarily for the personal convenience or satisfaction of a government employee (67 Comp. Gen. 87, 1987).

C-31. Cellular Phones/Pagers

There are no purchase card specific prohibitions on purchasing cell phones/pagers. The GSA Advantage web site contains such items. However, local policies should restrict types of phones, who they may be purchased for,

types of services to be obtained, etc. Additionally, the total dollar of the acquisition (equipment plus annual service period costs) must be considered in determining whether the purchase exceeds card threshold limits. Also, there are statutory provisions that would apply to telecommunications whether the card is used or not. Consult Volume 10, Chap 12, pages 82-84 of the Financial Management Regulations. It also should be noted that the government does not pay in advance of services received. All such telecommunication charges should not be billed until after services are satisfactorily rendered.

C-32. Bottled water services

Cardholders shall not purchase bottled water services with their GPC. Limited exception: This purchase is authorized if an agency has a report, from an outside water-testing agency, determining that drinking water is not available on the premises or that the drinking water currently provided or available on the premises is harmful if consumed.

C-33. Motor vehicle, long-term rental or lease

Cardholders shall not enter into contracts for the rental or lease of motor vehicles. Limited exception: Authorization may be granted for official, nonrecurring Government functions for no more than 30 days.

C-34. Trophies, gifts, awards, plaques, and mementos as give-away items for hails, farewells, and other occasions

Appropriated funds may not be used for personal gifts unless there is specific statutory authority to do so (68 Comp. Gen. 226, 1989). Examples of decisions where the Comptroller General determined expenditures to be improper included key chains distributed to educators who attended seminars sponsored by the Forest Service (54 Comp. Gen 976, 1975), novelty plastic garbage cans containing candy distributed by the EPA at an exposition (67 Comp. Gen. 385, 1978), and T-shirts stamped with Combined Federal Campaign logo to be given to employees contributing a certain amount (70 Comp. Gen., B-240001, Feb 8, 1991). Limited exception: The purchase of give-away items when specifically authorized by regulation may be authorized.

C-35. Business cards

Cardholders are not authorized to purchase business cards. Limited exception: A DoD memorandum dated 28 August 1998, authorized the printing of business cards using existing software and agency-purchase card stock for use in connection with official activities. That policy now amended in accordance with DOD memorandum dated July 15, 1999, to authorize the purchase of business cards from The Lighthouse for the Blind, Inc., a Javits-Wagner-O'Day participating non-profit agency, when addressees determine that costs are

equivalent or less to purchase cards rather than to produce them on a personal computer.

Addressees may authorize the printing of business cards by the Lighthouse for the Blind, Inc., for those organizations or positions under their cognizance that require business cards in the performance of their official functions. This authority may be delegated to subordinate management officials at general or flag rank and civilian members of the Senior Executive Service.

Employees should be reminded that cards obtained under this authority are to be used only for official business purposes.

C-36. Clothing

The test for purchase of clothing was described in 3 Comp. Gen. 433 (1924), and that discussion is still relevant today:

“In the absence of specific statutory authority for the purchase of personal equipment, particularly wearing apparel or parts thereof, the first question for consideration in connection with a proposed purchase of such equipment is whether the object for which the appropriation involved was made can be accomplished as expeditiously and satisfactorily from the Government’s standpoint, without such equipment. If it be determined that use of the equipment is necessary in the accomplishment of the purposes of the appropriation, the next question to be considered is whether the equipment is

such as the employee reasonably could be required to furnish as part of the personal equipment necessary to enable him to perform the regular duties of the position to which he was appointed or for which his services were engaged. Unless the answer to both of these questions is in the negative, public funds can not be used for the purchase. In determining the first of these questions there is for consideration whether the Government or the employee receives the principal benefit resulting from use of the equipment and whether an employee reasonably could be required to perform the service without the equipment. In connection with the second question the points ordinarily involved are whether the equipment is to be used by the employee in connection with his regular duties or only in emergencies or at infrequent intervals and whether such equipment is assigned to an employee for individual use or is intended for and actually to be used by different employees.”

Under the rule set forth in 3 Comp. Gen. 433, most items of apparel were held to be the personal responsibility of the employee. e.g., 5 Comp. Gen. 318 (1925) (rubber boots and coats for custodial employees in a flood-prone area); 2 Comp. Gen. 258 (1922) (coats and gloves for government drivers). But there were limited exceptions. Thus, caps and gowns for staff workers at Saint Elizabeth Hospital in Washington were viewed as for the protection of the patients rather than the employees and could therefore be provided from appropriated funds as part of the hospital equipment. 2 Comp. Gen. 652 (1923). See also 5 Comp. Gen. 517 (1926), Similarly, aprons for general laboratory use were held

permissible in 2 Comp. Gen. 382 (1922). Another exception was wading trousers for Geological Survey engineers as long as the trousers remained the property of the government and were not for the regular use of any particular employee. 4 Comp. Gen. 103 (1924). One category of apparel not permissible under the early decision was uniforms, Uniforms were viewed as personal furnishings to be procured at the expense of the wearer, 24 Comp. Dec. 44 (1917).

There are three statutes under which purchase of wearing apparel may be authorized—5 USC Section 7903 (special clothing for hazardous occupations), 5 USC Section 5901 (uniform allowances), and Occupational Safety and Health Act of 1970 (protective clothing). A decision summarizing all three is 63 Comp. Gen. 245 (1984). If none of these applies, then the rule of 3 Comp. Gen. 433 continues to govern.